

**OCCUPATIONAL THERAPY GOVERNING BOARD
OFFICE OF LICENSED ALLIED HEALTH PROFESSIONALS
CONCORD, NEW HAMPSHIRE**

In The Matter Of:

Docket #02-2013

**Mary E. Capuano-Yates
(Application for Licensure)**

DECISION AND ORDER

By the Board: Wendi Guillette, OT, Chair, Maris Wofsy, OT, Barbara Richardson,
Public Member, Roberta Anne Daw, OTA

Also present: Tina M. Kelley, Administrator to the Board

Appearances: Mary E. Capuano-Yates
Robert B. Whitehead, UniServ Director, Capital Region,
NEA New Hampshire

On April 29, 2013, the New Hampshire Occupational Therapy Governing Board ("Board") voted to DENY a request for reinstatement of license submitted by Mary E. Capuano-Yates. See Order on Application Denial ("First Order"), dated May 14, 2013. Ms. Capuano-Yates petitioned the Board for a hearing on the denial of her licensure and the Board issued a "Notice of Hearing, Order to Show Cause" on May 29, 2013.

On June 24, 2013, the hearing was held in accordance with RSA 328-F: 23 and 328-F:24; Aph 200 and Occ 200. Ms. Capuano-Yates appeared and was represented by, Robert B. Whitehead, UniServ Director, Capital Region, NEA New Hampshire.

At the time of the hearing, the Board reviewed numerous exhibits submitted by the parties, including letters of reference submitted on Ms. Capuano-Yates's behalf, and heard the testimony from the following individuals:

Ms. Capuano-Yates;

Robert B. Whitehead, UniServ Director, Capital Region, NEA New Hampshire;

Stacia Martin, OT;

Bridget Meunier, Beaver Meadow School; and

Christie Sembari, OT;

Mary Paradise, Special Education Administrator, Merrimack Valley School District

Ms. Capuano-Yates admitted to the allegations set forth in the First Order and the Board acknowledges that she has been forthcoming and cooperative throughout this process. It is clear from the record and Ms. Capuano Yates's own admissions that:

- Ms. Capuano-Yates submitted a completed supervision form on October 23, 2012, 56 days after supervision began;
- Ms. Capuano-Yates submitted the first supervisory letter on April 1, 2013, 48 days after completion of the supervisory period described in Occ 403.03(a)(1) and 35 days after directed by the Board;
- Ms. Capuano-Yates at no time requested an extension of the supervisory period; and
- Ms. Capuano-Yates did not properly adhere to the proper supervision at all times during the supervisory period.

Findings of Fact and Rulings of Law:

- The Petitioner held a New Hampshire Active-Conditional Occupational Therapy Assistant license from July 32, 2012 to March 30, 2013, license #0413.
- The Petitioner began supervision with Stacia Martin on August 27, 2012 and with Christie Simbari on September 13, 2012.
- The Petitioner submitted a completed supervision form on October 23, 2012, 56 days after supervision began in violation of RSA 328-F:23, I., (a), RSA 328-F:23, I., (j), Occ 404.03(a), Occ 405.02(k)(1), and Occ 405.02(k)3).
- The Petitioner worked under supervision at the rate of 35 hours per week. The number of hours per week was reported by both the Practitioner and Stacia Martin, OT.
- Based on the number of hours worked per week (35), the supervision required under Occ 404.02(a)(1) ended on February 11, 2013.
- The Petitioner was directed by the Board in the letter dated July 31, 2012 to submit for the Board's review a supervisory letter demonstrating competence within 2 weeks of completion of the supervisory period.

- The Petitioner submitted the first supervisory letter on April 1, 2013, which was 48 days after completion of the supervisory period described in Occ 403.03(a)(1) and 35 days after the date directed by the Board in its letter dated July 31, 2012 in violation of RSA 328-F:23, I., (a), RSA 328-F:23, I., (j), Occ 404.02(a)(1), Occ 405.02(k)(1), and Occ 405.02(k)3).
- The Petitioner did not request an extension of the supervisory period in violation of Occ 404.06, Occ 405.02(k)(1), and Occ 405.02(k)3).
- Based on the information provided in the letters submitted by the Practitioner and Stacia Martin the Petitioner has not provided sufficient evidence that proper supervision was adhered to at all times during the supervisory period.

THEREFORE, IT IS HERBY ORDERED that Ms. Capuano-Yates' request for full licensure is **DENIED**.

IT IS FURTHER ORDERED that Ms. Capuano-Yates be issued a Conditional License.

IT IS FURTHER ORDERED that while Ms. Capuano-Yates is conditionally licensed she will work under supervision as described in Occ 304.02(b):

- Direct Supervision by a supervisor meeting the requirements of Occ 304.05 for 5 percent of the hours worked each week; and
- Indirect supervision by a supervisor meeting the requirements of Occ 304.05 for another 5 percent of the hours worked each week

IT IS FURTHER ORDERED that the supervisor will meet the eligibility requirements set forth in Occ 304.05.

IT IS FURTHER ORDERED that Ms. Capuano-Yates submit a completed "Supervision Form" and verify with the Board's office that the form has been received and is complete before beginning practice under supervision.

IT IS FURTHER ORDERED that Ms. Capuano-Yates, before the beginning of supervision, meet with her supervisor. At this meeting Ms. Capuano-Yates shall provide her supervisor with a copy of Occ 304 and discuss the required supervision and timelines for submission of documents. Proof of this meeting shall be submitted to the Board, in writing, and signed by both Ms. Capuano-Yates and her supervisor. This letter shall be submitted with the supervision form.

IT IS FURTHER ORDERED that the conditional period shall be in duration as described in Occ 304.03(a)(1):

- Practice under the supervision required by Occ 304.02(b) for at least 12 weeks if practicing 32 hours each week and for at least 24 weeks if practicing fewer than 32 hours each week.

IT IS FURTHER ORDERED that Ms. Capuano-Yates demonstrate competence as documented by at least one supervisory letter complying with Occ 304.03(b) and arrange for the Board to receive such supervisory letter(s) directly from the supervisor within 2 weeks of completion of the supervisory period.

IT IS FURTHER ORDERED that the supervisory period end no later than December 1, 2013.

IT IS FURTHER ORDERED that Ms. Capuano-Yates shall bear all costs of complying with the terms of this Decision and Order, but she be permitted to share such costs with third parties.

IT IS FURTHER ORDERED that the Board may consider Ms. Capuano-Yates's compliance with the terms and conditions herein in any subsequent proceeding before the Board.

IT IS FURTHER ORDERED, that Ms. Capuano-Yates provide a copy of this Decision and Order, as further defined below to any employer for whom the Applicant performs services as an Occupational Therapist for the duration of time indicated on the conditional license and to any agency or authority which licenses, certifies or credentials Occupational Therapist, with which Ms. Capuano-Yates is presently affiliated.

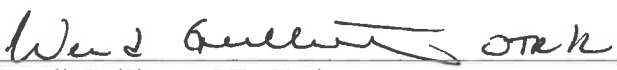
IT IS FURTHER ORDERED that Ms. Capuano-Yates's breach of any terms and conditions of this Decision and Order shall constitute unprofessional conduct pursuant to RSA 328-F:23, II.

IT IS FURTHER ORDERED that this Decision and Order shall become a permanent part of Ms. Capuano-Yates's file, which is maintained by the Board as a public document.

IT IS FURTHER ORDERED that this Decision and Order shall take effect as a final Order of the Board on the date it is signed by an authorized representative of the Board.

BY ORDER OF THE BOARD

Date: 6/27/13


Wendi Guillet, OT, Chair
Authorized Representative of the New Hampshire
Occupational Therapy Governing Board